International Journal on Responsibility 2023, Vol. 6
DOI: (assigned upon publication of volume)

"He's in jail now and I don't feel bad": Analyzing Sureties' Decisions to Report Bail Violations

Rachel Schumann[1]
Carolyn Yule[2]

Abstract

The control, supervision, and rehabilitation of criminalized people often falls on the shoulders of non-state agents and organizations. Surety bail releases are a clear embodiment of this trend, as the courts call upon relatives, friends, and employers to supervise the pre-conviction activity of people accused of a crime. According to the law, sureties must report all bail violations to the police; the resulting diffusion of responsibility is said to increase the penal state's power and control over criminal justice-involved individuals while minimizing reputational risks. Yet how sureties carry out this role in the community remains unexplored. Using data from 36 interviews with sureties in Ontario, Canada, we find that how friends and family assume the role of surety varies considerably and regularly diverges from court expectations. Despite the general commitment sureties show towards supervising the accused, decisions to report an accused vary based on the perceived severity of the act, the fairness of the conditions, the accused's best interests, and their own bias towards the law. In this way, responsibility for carceral control is not just assumed by sureties but also resisted, ignored, and subsequently transformed in the context of their everyday lives. Understanding how the decision-making process of sureties works in practice is important for informing recommendations geared towards offsetting the pains of pre-conviction for the accused and their loved ones.

Keywords: bail, judicial interim release, surety, civilian jailer, pre-conviction punishment, diffusion of responsibility

Introduction

A growing trend in criminal justice policy sees the control, supervision, and rehabilitation of criminalized people being offloaded onto non-state agencies and organizations (Goddard, 2012; Kaufman et al., 2018; Simon, 2007). In Canada, this trend becomes apparent during the pre-trial phase of criminal justice processing when ordinary citizens, called sureties, agree to supervise people accused of crime(s) in the community. Sureties assure the court that the accused will 1) attend court, 2) not reoffend or breach their conditions, and 3) not interfere with the administration of justice by promising a set sum of money to the court if the accused breaks the above three rules (Trotter, 2010). Instead of having legal professionals shoulder these responsibilities, the courts rely on people closest to the accused to do so: their employers, significant others, relatives, and most commonly, their parents. Compared to being held in jail, being released on bail with a surety is often viewed, from a legal perspective, as a more reasonable and less invasive option since the accused can deal with the resolution of their case in the community. When

[1] University of Toronto, ON, Canada
[2] University of Guelph, ON, Canada

Corresponding Author: Rachel Schumann, Department of Sociology, University of Toronto, Kitchener, Ontario, Canada; Email: rachel.schumann@mail.utoronto.ca

Published by Scholarly Commons, James Madison University. https://commons.lib.jmu.edu/ijr/vol6

compared to other forms of pre-trial release, however, surety releases can be quite onerous because according to the law, sureties must report *any and all* bail violations to the police (Trotter, 2010). While the lack of official court data in Canada makes it difficult to know the exact number of cases involving sureties, there is widespread agreement among scholars and legal professionals that they are used more than the law requires in some jurisdictions (CCLA, 2014; JHSO, 2013; Lauzon, 2016; Myers, 2009, 2018; *R. v. Antic*, 2017; *R. v. Tunney*, 2018; Schumann & Yule, 2022; Webster et al., 2009).

Given the legal obligations bestowed upon sureties, the question remains: what happens when accused persons fail to comply with court orders? To date, minimal research explores the willingness of sureties to report their loved ones to the police. While the legal and financial pressures placed on sureties to ensure compliance transforms those closest to the accused into de facto prison guards or "civilian jailers" (Myers, 2018; Schumann, 2018), there are reasons to suspect that how sureties assume their role may diverge from court expectations. Specifically, the legal demands to enforce conditions and report noncompliant and criminal behaviour may oppose a surety's role as the accused's friend or family member. While the logic that sureties will disclose all court violations to the police because the financial costs of not doing so are higher than the cost of reporting the accused reflects a purely rational choice perspective, it neglects other important factors that influence reporting decisions, such as offense seriousness (Bachman, 1998; Felson & Pare, 2005; Shah & Pease, 1992), reporter-offender relationship (Black, 1976), and perceptions of the law (Carr et al., 2007; Rosenfeld et al., 2003; Solis et al., 2009).

Using interview data from 36 sureties, this study examines the extent to which the clearly defined legal responsibilities sureties assume align with how this form of release works in practice. In doing so, it lends important insight into the ways penal control is not just assumed by non-state actors, but also how it may be resisted, and ultimately transformed in the context of everyday life and intimate relationships. The results inform broader legal and policy conversations about whether surety releases are overly onerous and whether they accomplish their intended purpose (*Canadian Charter of Rights and Freedoms*, 1982; Canadian Civil Liberties Association [CCLA], 2014; John Howard Society of Ontario [JHSO], 2013).

Literature Review

Surety Bail Releases: By and Beyond the Books

The principle of reasonable bail, which guarantees the right not to be denied "reasonable bail without just cause," has been the law in Canada for generations (*Canadian Bill of Rights 1960* s. 1(e); *Charter of Rights and Freedoms* s. 2(f)). In an effort to keep the accused out of custody while awaiting adjudication, surety releases are one of five types of release outlined in the Canadian Criminal Code (Sec. 515(2)).[1] When determining whether the accused can be released back into the community, and under what conditions, the legislative framework of bail directs justices to use the ladder principle to ensure the fewest and least onerous conditions necessary are imposed (*Criminal Code* s.515(2.01)). The lowest rung of the ladder indicates that the accused should be released without conditions and on their own recognizance. If the Crown[2] feels this is inappropriate, a move up the ladder must be justified in light of why a lesser form of release is not suitable; Crowns can argue for a more restrictive release, which might include release with a surety and/or release with conditions (*Criminal Code* s.515(4)). There are two types of surety releases – residential and non-residential. Under a residential surety, the accused is ordered to live at their surety's residence until the court says otherwise. This release makes direct observation of the accused easier, and not surprisingly constitutes the highest rung up the ladder, falling just short of imprisonment (*R. v. Antic*, 2017; Trotter, 2010).

The courts consider a wide range of factors when determining who are suitable "jailors in the community" (*R. v. Hiscoe* at para 54; *R. v. Rhyno* at para 35). Ideally, sureties will have a close relationship with the accused, be willing to supervise the accused, have assets they are willing to forfeit to the Crown should the accused fail to comply, and, depending on the accused's alleged offence, not have a (recent) criminal record or know anything about the alleged offence (Trotter, 2010). The following individuals are excluded from acting as a surety: accomplices, the accused's counsel, persons in custody or awaiting trial on a criminal offence, children, individuals already acting as sureties for someone else, and people residing outside the province (see Trotter, 2010, p. 7-18).

One of the primary legal responsibilities of a surety is to ensure an accused complies with the court-ordered conditions of their release and report the accused to the police for any illegal and/or non-compliant behaviour. To assist sureties in preventing bail breaches, the courts authorize them to impose their own conditions as part of the routine and discipline of the household. These conditions are up to the surety's discretion and can include conditions such as having to take out the trash, prepare dinner, and follow a non-court ordered curfew. If the accused disobeys these demands, the surety can either *revoke* their position or *report* the accused for failing to comply. In both scenarios, the accused is placed back in custody. If the surety revokes, the accused remains in jail until a new surety is found. If the surety reports the accused to the police, the accused can be charged for breaching bail and put in jail to await another bail hearing.

To keep sureties accountable, the courts make them pledge to forfeit an amount of money (usually between $250-$2000) if the accused misses court, reoffends, or breaches (Trotter, 2010). The monetary amount is based on an analysis of the risk the accused poses while out in the community and the financial assets of those involved. This promise to pay is intended to provide the necessary impetus for friends and families to render non-complying individuals to the police in order to avoid financial forfeiture.[3] The monetary component of surety bail also operates under the assumption that the accused will follow the terms of their release to prevent subjecting their "nearest and dearest" who come forward as surety the "undue pain and discomfort" of having to forfeit the amount of the recognizance (*AG v. Horvath*, 2009 para 40). However, some scholars argue the system is too lenient on sureties and the accused who "are released from custody only to thumb their noses at the conditions they're ordered to abide by" (Powell, 2012, p. 2). Anecdotal evidence suggests that this may be a function of Crowns only seeking estreatment[4] – or the forfeiture of money or property when the accused breaches their bail conditions – in cases when bail is set at a high amount to avoid wasting court resources pursuing cases with minimal estreatment potential (Powell, 2012). The resulting assumptions are twofold: the financial repercussions of failing to report bail breaches are not strong enough and, when left to their own devices, sureties are negligent at best in upholding the law.

Despite the overuse of surety releases, they remain understudied due to limited available information that details who becomes a surety. With that said, scholars have had success using courtroom observation to document the frequent use of sureties (Myers, 2009) and the quasi-police powers imposed on them via bail conditions (Schumann, 2018). The outcomes of these studies contribute to broader criticism among scholars and legal professionals who argue such releases are a prime example of how the penal state has expanded its net of control around individuals who have been formally charged but not yet convicted of a criminal offence (Myers, 2009; Schumann, 2018).[5] In addition to controlling the actions of the accused, sureties also deflect blame away from the court should the accused breach or commit a new substantive offense (Myers, 2009; *R. v. Tunney*, 2018; Webster et al., 2009). The potential threat of releasing a dangerous accused person has made "risk the modelling ideology of organizations, where a good organisation has come to be equated with being a good risk manager" (Myers, 2009, p. 129). Simply put, sureties provide the courts with an extra level of assurance by subjecting accused persons to more

direct supervision than if they were released on their own recognizance or with a bail supervision program (Trotter, 2010). While the accused themselves typically express relief when they receive any form of bail release instead of jail (Yule et al., 2022), they are also often keenly aware that being released with onerous conditions puts them at risk of accruing additional criminal charges, even for non-criminal behaviour, if they are caught breaching (CCLA, 2014; JHSO, 2013). The legal consequences that result from having a surety revoke or report, such as loss of money, arrest, and detention, blur the boundaries between crime prevention and punishment and violate a legally innocent person's constitutionally protected rights and freedoms (CCLA, 2014; Doob & Webster, 2012; JHSO, 2013; Myers, 2017; Trotter, 2010).

Understanding Surety Decisions to Report Bail Breaches

While having friends and family assume the role of civilian jailer provides the state with greater access into the everyday lives of criminally suspect individuals, offloading responsibility for the accused onto sureties transfers the power to inform how control is dispensed in the community to ordinary citizens. By assigning responsibility to sureties, the courts open the door – perhaps inadvertently – for sureties to influence how to manage the accused. In this way, non-state agents may play an important role in shaping punishment and control agendas. Given that punishment is a site of constant struggle as it morphs and expands within the context of daily life (Goodman et al., 2017), knowing what motivates friends and family to report or revoke an accused's bail is important for understanding their contributions to the assemblage of control (Maurutto & Hannah-Moffat, 2006) in lives of the accused.

Compared to monitoring the accused's behaviour, reporting could present more difficulties for sureties who may express doubt about having to phone the police on a loved one. Although the "pull of bail" is an example of classic rational choice decision-making whereby sureties report bail breaches to avoid financial penalty, theoretical advancements have expanded the theory beyond a simple, economic-based calculation. Feelings of guilt and shame, for example, play an instrumental role in shaping and promoting the belief systems that support a person's actions, including the commission of crime (Svensson et al., 2013). Similar to decisions to offend, decisions to report a loved one to the police are likely rife with emotion because the accused ends up back in custody with additional charges. Moreover, having new charges puts the onus on the accused to show why they should not be detained, which inevitably makes bail more difficult to acquire (Trotter, 2010). To convince the court that they should be released, the accused must present a more restrictive bail plan than their previous release. For many accused, the challenge of putting together a more substantial release plan leads to longer stays in custody (Wyant, 2016). The desire to keep the accused out of custody could affect a surety's intention to seek police intervention for non-compliance. Gottfredson and Gottfredson (1988) posit that victims and non-victims are both more inclined to report a crime if it suits their own objectives, such as obtaining restitution or upholding the social contract (Galvin & Safer-Lichtenstein, 2018). If a surety's goal does not align with their legal role, they may be reluctant to fulfill their responsibility to report the accused to the police.

Extant literature further indicates that offense seriousness is a strong predictor of crime reporting among victims (Bachman, 1998; Felson & Pare, 2005) and non-victims (Galvin & Safer-Lichtenstein, 2018). Baumer (2002) finds that victims of minor offenses use considerably more discretion when cooperating with the police. This is consistent with other studies that show that female victims of intimate partner violence are more likely to cooperate with the police if they have been injured by comparison to those who have no physical injuries (Hare, 2006, 2010; Hirschel & Hutchison, 2003). While less is known about the effect of crime seriousness on third-party reporting, Galvin and Safer-Lichenstein (2018) find that crime seriousness plays a larger role in decisions to report among third-party reporters than victims. When bystanders fail to report, Mayhew et al. (1979) speculate that it has less to do with the perceived

triviality of the offense and more to do with a failure to recognize the behavior as a crime. In this way, decisions to report an accused may be tempered not only by a surety's perception of the severity of the breach, but also by their ability to identify it as problematic.

The determination of breach seriousness may be based on how sureties view the criminal justice system more broadly. Victimology research finds that legal cynicism reduces a victim's willingness to cooperate with the police, sometimes overriding their desire for punishment (Hare, 2006; Kirk & Matsuda, 2011; Koss, 2000). Negative experiences with members of the criminal justice system, both directly and indirectly, also adversely affect perceptions of the law (Hitchens et al., 2018). Communities that face high levels of institutionalized stigma and are consciously aware of the law's role in their subordination may be more inclined to actively resist the law (Bell, 2019). Low confidence in the police minimizes a person's willingness to report crimes, comply with the law, and co-operate with the justice system (Brown & Benedict, 2002; Sunshine & Tyler, 2003). Distrust in the police/courts may lead some sureties to overlook bail breaches because they do not see the "justice" system as overly helpful or fair.

Yet legal cynicism is just one type of cultural frame that shapes how marginalized communities respond to crime and interact with the criminal justice system. Evidence suggests that members of these communities may rely on the police whilst also being highly distrusting of them (Hagan et al., 2018). For example, Bell (2016) used a micro-sociological approach to examine the situational contexts that influence police reliance among African American mothers. She found that women reconciled their cynicism of, and reliance on, the police when they used police selectively in order to help regain control of a situation they deemed threatening, to gain access to social service programming for a loved one, and/or to interrupt behaviour they considered disruptive (i.e., to "save" their child from law-breaking peers). In this way, "even if mothers still generally distrust police, possibilities for situation-specific trust remain" (Bell, 2016, p. 338). In the context of bail, sureties may be skeptical of the criminal justice system more generally, but still be willing to report their loved ones to the police depending on the micro-level situational dynamics at play.

Taken together, the existing research documents *why* court's offload responsibility onto sureties, but it has yet to explain *how* sureties carry-out this role in the community. Though little research has explicitly commented on the reporting decisions of third-party agents, victimology research suggests that crime severity and trust in the criminal justice system can shape a person's willingness to seek police intervention. The remainder of this paper examines the reporting habits of sureties and provides important insight into how they respond to bail breaches of court-ordered conditions.

Data and Methods

Prior field work and personal experiences fundamentally shaped the initial research questions and methodological approach for the current study. The seeds for this study were planted during the field work stage of an earlier project, when the first author spent significant time sitting in the waiting room during bail court recesses. During this time, the first author made informal observations about, and chatted with, people who proposed themselves as surety and who appeared to be emotionally invested in helping the accused get released. These observations and discussions were reminiscent of the researcher's personal experience as a teenager of having a parent on a stringent bail with two family members as sureties. While these experiences prompted the initial research questions for this project, reflexivity challenged us to "explicitly examine how the research agenda and assumptions, subject location(s), personal beliefs and emotions" enter into our research (Hsiung, 2008, p. 212; see also Small & Calarco, 2020). We acknowledged the ways in which one family's circumstances might be different from the people in our study. Specifically, it was the researcher's father's first and only criminal charge, he had steady,

full-time employment, and a supportive family. Understanding how bail affects the lives of sureties and accused differently based on a variety of factors including the accused's willingness to abide, prior relationship ties, and the availability of social support, provided a degree of empathy that was helpful for building rapport with the study participants, thus lessening the divide between "researcher" and "researched."

The data used in this analysis were collected as part of a larger qualitative study on the lived experiences of sureties. The first author recruited and interviewed all participants and conducted the data analysis. Participants were recruited three to five days per week over a six-month period as they waited to become sureties outside of the bail courtrooms in one mid-size courthouse in Southwestern Ontario. Unless otherwise directed, potential sureties are asked to arrive in court at 9:00 am, though they may not be needed or called upon until later in the day. For potential sureties, filling out affidavits, getting a police record check, and meeting with the accused's lawyer can take upwards of a full day depending on several factors including the complexity of the case, length of the daily docket, and availability of court staff. The amount of time waiting provided an excellent opportunity to recruit and build rapport with potential participants.

Data from a follow-up interview that was scheduled anywhere between eight weeks to six months after the initial interview at the courthouse, informed this study. Of the fifty-six people who participated in the original interview, thirty-six were available for a follow-up interview.[6] Follow-up interviews focused on the lived experience as a surety and how relationships with the accused changed since the initial contact at the courthouse. Most interviews occurred at the surety's home or at a public place such as a coffee shop. Five interviews took place over the phone because the sureties resided in another geographical region. While most interviews occurred around the two-month mark, some took place as long as six months after the initial interview. Each interview averaged two hours in length. To maintain rapport, feminist interviewing techniques were used such as exhibiting a warm demeanor, listening to participants, and allowing them to make choices about their participation (Campbell et al., 2009).

To capture the reporting habits of sureties, they were asked about hypothetical bail breaches that emphasized how they would both react and feel *if* their loved one violated the terms of their release.[7] More specifically, they were asked: would you ever report [accused's name] to the police? Why/why not? Describe what the circumstances might look like. How would you feel?

As Table 1 shows, women comprise the majority of the 36 individuals included in the final sample, the majority of whom identify as white/European. The sample is quite diverse in terms of age, though most individuals are older than 40 years. Half of the participants have either full or part-time employment while nearly one-third are either unemployed or retired. As Schumann (2018) finds, contrary to expectations, unemployment is often viewed as an asset by the court when determining surety suitability because the surety can provide more thorough supervision. Most sureties are parents to the accused, followed by friends and other relatives (i.e., siblings, grandparents, cousins, uncles/aunts). Sureties identifying as the accused's romantic partner or employer occur less often. The largest proportion of the sample disclosed that they had served as a surety two or more times prior and one third reported that this was their first time acting as a surety. Based on general observation notes of the waiting area, this sample appears to be representative of the people who come forward as a surety in this jurisdiction.

Table 1. Sample Demographics

Demographic Variables	***n* = 36**	**%**
Gender		

Male	11	31%
Female	23	64%
Couple	2	5%
Race		
White/European	27	75%
Black	4	11%
South Asian	1	3%
West Asian	2	6%
Latin American	1	3%
Indigenous	1	3%
Age		
20-29	2	6%
30-39	6	17%
40-49	8	22%
50-59	8	22%
60+	12	33%
Employment status		
Employed	20	56%
Unemployed	4	11%
Retired	11	31%
Unknown	1	2%
Relationship with Accused		
Parent	16	44%
Relative (i.e., sibling, cousin, uncle, etc.)	8	22%
Friend	9	25%
Romantic Partner	1	3%
Employer	2	6%
Surety History		
First time ever	11	31%
First time for this accused	9	25%
Multiple times for same person	18	44%

Given the nature of this study, data collection and analysis often occurred simultaneously. Using the phronetic iterative approach as described by Tracey (2020, p. 27) offered the necessary flexibility to move back and forth between the data and existing theoretical and empirical research during the coding process (see also Deterding & Waters, 2021). Initial descriptive themes regarding potential motives to report the accused emerged using line-by-line coding. Through the process of data collection, re-reading of transcripts, and initial coding, preliminary themes were identified based on their prevalence within the data and whether they captured something important in relation to the study's main objectives (Brunson & Miller, 2006). By focusing on surety reporting habits, several key themes were identified as being possibly relevant to the study's overall aims. These themes served as an initial starting point when organizing the data and provided directions on how to proceed with more selective coding (Miles et al., 2020). Unlike the primary codes, the secondary codes were informed more by existing sociological and

criminological literature about reporting and the role of the law in everyday life. During this cycle, clear patterns emerged in the data that began to form the study's results. Negative case analysis, notes, and analytic memos were used to strengthen the ongoing analysis and ensure multiple viewpoints were represented in the final codes (Miles et al., 2020). This process revealed five major themes within the data, namely, (1) legal responsibility, (2) deservedness and failed expectations, (3) breach seriousness, (4) fairness, and (5) legal cynicism.

Results

One of the most important legal roles of the surety is to report non-compliant behaviour, yet we know very little about how they define and report bail breaches. Of the 36 participants, 13 were no longer a surety at the time of the interview because they either revoked their position or reported the accused to the police or the police apprehended the accused independently. Three others reported during the interview that they were seriously thinking about revocation. Generally, decisions to report the accused for breaching often depended on how sureties viewed the law and the accused more generally. While some said they would report any and all infractions, others showed more hesitation.

Legal Responsibility

Sureties attributed their tendency to report to their legal obligation to do so. Abigail and Daniel[8,9] explained that they would have to report their son to the police because being a "surety has these laws and we need to take these responsibilities and be responsible. So our house has become a partial prison with conditions." For people like Abigail and Daniel, becoming surety was their first exposure to the criminal justice system. Indeed, this was something that Emily emphasized when she explained why she reported her son for breaching a no contact order. She stated:

> He would say "what are you doing mom?" and I would say that it was my job to protect everybody in question, that's what I agreed to. I was sad when I had to report him to the police. Sad I was handing him over, sad he put me in the position that I had to hand him over. It was very difficult, I could cry now. I had no control, if he wants to contribute to society, he needs to understand there are rules. It's society, there are rules. I wanted to show that there are consequences to not following rules. Sometimes I thought he thought his mental health was an excuse but I told him, it's not an excuse. He's upset because his wife's life is continuing but his isn't. I told him, you can have that but you chose this. This was our very, very first time, we never had much experience [with the criminal justice system]. We lived very straightforward, I only had one ticket, maybe 40 years ago.

Rather than question the law, Emily's unwavering faith in it encouraged her to bring her son to the police so that she could teach him a lesson about the importance of rule following. Kersen also put faith in the power of the law to dictate behaviour. He believed all of his son's conditions were important because "if the court decides that these things will get him into trouble all the time then these are there to prevent him from that." Although he allowed his son to commit minor breaches and took issue with the level of responsibility expected by the court, he was still prepared to call the police if his son broke the law or disregarded his rules completely. Rod also deferred to the power of the law in his decision to report the accused. Even though he might empathize with his friend for breaching, he said,

> I would have to go to the police station and let them know. It's up to them to decide if they will go after him. Small infractions lead to bigger ones, so I don't want him to take me for granted… If I found he's at his girlfriend's house I would go straight to the cops and tell them. I would take him to the police station with me. If they decide and just talk to him and release him, then okay, at least the police are aware and it's serious.

Rod had minimal interactions with the law prior to becoming a surety. During the interview, he confessed that "just being in here [the courthouse] makes me feel uneasy, I don't like dealing with lawyers or criminals." Wanting to comply with the law was therefore a motivating factor in informing the police about bail breaches.

Sureties like Clayton viewed himself as someone "who lays down the law." When asked about whether he would report a breach, he said,

> [the accused] knows me, I would never give him a warning…I understand that some would because he's a friend and you don't want to see them in trouble. But you do the crime, you do the time. You need to know right from wrong. It's my responsibility to uphold the law.

The obligation and duty that some friends and family felt as surety translated into a zero-tolerance mentality about reporting non-compliant behaviour. For these sureties, the transcendent quality of the law in their daily lives influenced how they enforced court orders.

The financial obligation sureties make to the court also shaped decisions to revoke or report bail violations. For example, Josephine admitted that the financial consequences that would result from not reporting her son forced her to do so to avoid putting the family into financial jeopardy. Camilla also explained that the money she put up was important to her, and consequently she would revoke her surety if the accused refused to abide by her bail conditions. Conversely, Genie said "I wanted to do the right thing [i.e., revoke] regardless of the money. Two thousand dollars is nothing for me. It may matter for some people but it's my job qualifications that are more important." And yet, other sureties reported that the damage that revoking or reporting would cause the accused if they returned to prison was "really the undesirable consequences more so than the financial side of it" (Abigail and Daniel, and Jack). Abigail, Daniel, and Jack reported that their respective sons were extremely fearful of going to jail, which weighed heavily on them. For these sureties, the price placed on the accused's bail was inconsequential to the price of being in jail.

Deservedness & Failed Expectations

Sureties who believed the accused deserved to be in custody or were disappointed in the accused's overall progress appeared more willing to report non-compliant behaviour to the police regardless of the severity of the breach. Although Eileen and Wyatt eased some of their son's conditions, they eventually reported him to the police and charged him with stealing their credit cards when he failed to come home on time for curfew.

> Our biggest fear is that he is going to kill himself or someone else. Public safety is important to us…because he's 18, legally we have no rights to stop him or to keep him away from anything. Even as a surety, there's nothing to stop him. As a surety you just have to revoke. Sometimes he's safer in custody.

Ronda similarly felt that her son's behaviour warranted going back to jail because he just could not comply with any of his conditions. She physically drove him to the police station in order to show him the value of complying with the law. Disappointed with Dan's lack of respect for her and her home, Margaret felt that he ought to be in jail. She disclosed that "he's in jail now and I don't feel bad, he needs to learn a lesson and learn to be quiet when he's asked…even his mom said he deserved to be in jail." Suzanne similarly based her decision to report on the accused's deservedness. While Suzanne had minimal issues as surety for her son and did not think she would ever have to report him, she did not rule this out completely, suggesting that "If I ever had to, I would but I don't think it would ever come to that. If I had to, I would feel that he deserved it. I wouldn't feel guilty about it because that knowledge was there for him, you know." Importantly, few sureties second-guessed their decision to involve the police, as many saw this as the only way to discipline the accused for inappropriate behaviour. Friends and family frequently had their own expectations about how the accused should act while on bail. From the perspective of a surety, an accused who failed to live up to these expectations was more deserving of being sent back to custody. If the surety believed the accused was making an effort, they appeared less enthusiastic about reporting or revoking.

The tendency to report bail violations appeared to increase when sureties believed the conditions unfairly interfered with their own lives. For example, Johnny felt like he was "basically…a babysitter" who was "a parent to an adult" and the task was more than he anticipated. Although he attributed some of his supervisee's actions to her declining mental health, he eventually reported her to the police when she failed to return home after being gone for several days. As he explained, "I'm not her dad, I'm not her babysitter, and I'm not her boyfriend." In other words, he did not feel compelled to overlook her breaches because doing so surpassed his responsibilities as her friend. Margaret similarly reported her friend Dan to the police for a series of breaches that began as soon as he was released on bail. When discussing her experiences, she said "I brought him to recovery to celebrate and showed [him] where to get help but he wanted a babysitter. I couldn't take him by the hand everywhere, I'm not that mobile." Although Margaret tried to make good on her promise by encouraging her friend's sobriety, she was ill-prepared to supervise his every move. The aversion sureties like Johnny and Margaret felt towards the process of becoming a surety and the impact the conditions had on their own lives likely prompted them to report the accused to the police.

Breach Seriousness

Decisions to overlook non-compliant behaviour often centered on the insignificance of the alleged breach. For several sureties, the accused needed to commit a violent or egregious offence before they would consider phoning the police. Randy stated that "If I felt like, um, if I felt he was able to emotionally not control himself or do something violent, I guess I would be compelled to, but I really wouldn't want too, he's a friend." If it was a less serious breach, like being within 200 meters of the victim, Randy reasoned:

> I would say you obviously can't do that, you're putting yourself in jeopardy and me. The consequences would be severe and obviously it wouldn't help him in the future, and it would be stupid. I would just talk to him first, as long as anything didn't happen with the neighbour, I would talk to him and just make sure he wouldn't do it again even though that could cause him and me a lot of trouble.

Camilla also agreed that the context of the breach would be important in her calculation to report.

> It would depend. [...]. It would really have to depend on the certain term. What it was. If I talked to her at 3:00am and I knew she was driving home with a party still going on in her jeep, I would. She would probably do some time but if there was a possibility of her or someone else getting hurt, then yeah. If it was life or death, then yeah. But if it was something petty, like a missed curfew, I wouldn't.

Relatedly, some sureties even allowed minor breaches to occur. Lydia, for example, acknowledged that her friend Josh failed to follow his curfew condition but had not reported him because "he seems to be staying out of trouble." For her, coming in past curfew did not classify as a serious breach because, at least to her knowledge, he was not doing anything that she considered to be "illegal." She also believed his conditions were unfair, which likely contributed to her reluctance to report him. Kersen, on the other hand, had a comparatively easier time getting his son to comply with his conditions, which he described as more than fair. Still, when asked whether he would know if his son breached, he acknowledged "I wouldn't be able to tell. Sometimes he takes longer, an hour, an hour and [a] half, maybe he's out having a drink with his friends. He didn't get into any harm so it's okay." Kersen gave his son considerable leeway when it came to his conditions. Like Lydia, Kersen defined breaches not by his son's total compliance to his conditions, but by the perceived seriousness of the infraction.

By allowing small breaches in a controlled environment, other sureties felt they avoided more severe violations. To prevent their 18-year-old son Ethan from leaving the house to see friends, Eileen and Wyatt permitted their son to have small social gatherings in their home. Despite his condition to not drink or possess alcohol, Eileen and Wyatt allowed Ethan's friends to bring alcohol into the home because their son "was under our supervision and we could monitor him at least." By allowing and subsequently not reporting the breach, Eileen and Wyatt believed they prevented Ethan from going out past curfew and causing more harm to himself and others.

Fairness

Sureties showed a high degree of skepticism in reporting if they believed the allegations against their loved ones were false or the conditions were unfair. When asked, Shirley, who believed her son's ex-wife was "ruining his life," if she would ever report her son to the police for a breach, she explained:

> That's a tough one. I'm not sure I could. I know I'm supposed to but if it came right down to it, I can't say I would. If he didn't do anything that was really warranted, I couldn't. This whole thing is bullshit. He didn't do it and now they got him for breaking bail. I always believe in innocent until proven guilty, but this system isn't this way. I think if he was, if he was guilty of anything, then it would be different. But if he's innocent, that's the part I'm having a problem with. When he was a teenager, I told him if I caught him doing something, I'd turn him into the police. I know he's innocent…If I knew my son was guilty of something, absolutely, it's the innocence that I have my problems with.

Knowing her son was innocent made it difficult for Shirley to imagine a scenario in which she would report her son. Like Shirley, Star was also less inclined to say she would report the accused because she believed his charges were unwarranted. When she was explaining her thought process behind breaching, she said

> Another thing that's important to know is that the charges that he's charged with have nothing to do with him. So I feel his frustration that he's not even guilty of them so it's a lot to deal with these conditions. I hate to say it but it's true [that I wouldn't report]…I'm taking these conditions in light of this.

For sureties like Star and Shirley, reporting the accused to the police became less likely if they thought the accused was innocent and undeserving of having to abide by restrictive conditions.

The overall fairness of the conditions also factored into decisions to report. Samantha, for example, loosened the conditions on her friend Kendrick. Recognizing the possibility that he might have missed the bus coming home from work, she regularly pushed his curfew limit from 6:00pm to 7:30pm. She also sometimes overlooked his no alcohol condition by taking him to the liquor store and having "a few drinks in the backyard" together. To her, Kendrick's house arrest was unfair. About the conditions, she said "I think he needs to have more freedom – like a curfew so he can see a girl and come back….the house arrest is a negative for him." The discretion showed by friends and family indicates the way sureties modified conditions based on their own perception of what was legally acceptable. Relaxing an accused's terms therefore allowed sureties to employ their own sense of justice by making the release fairer and less constrictive.

Legal Cynicism

Personal biases towards the law further impacted sureties' calculus to report. Those who were more skeptical of the criminal justice system were only willing to phone the police if the accused committed a serious offense. Johnny said that he would only report his friend to the police if he thought "she was going to hurt herself or someone else over dumb shit or be a danger to her kids." He went on to explain that "I don't like cop calling. Personal past – they have just never done anything to help me out." Although Johnny did eventually report Helen to the police due to the constant stress of being her "babysitter," his aversion to the police provides some explanation for why he waited several days before calling her in. Like Johnny, Samantha also avoided the police whenever possible. Thus, despite her annoyance with being a surety, she too stated that aside from coming in late for curfew and using drugs in her home, she would not report Kendrick to the police. Recalling her past experiences with the police, she said:

> It would suck to call the police. i'm not the person to call the police but when it comes to my property I will. [*Interviewer: Why do you describe yourself as someone not to call the police?*] Cause of my past experiences. I've been arrested, I've been harassed by police. I was an addict. I was walking home in the middle of the night and the police pulled me over, I was walking home. He made me come talk to him and he searched me. It was bad – they did not like me so I had to move. Cops don't see any progress where I'm from. Once you're an addict, they always see you as that regardless of improvement.

As an alternative, Samantha confirmed that she "absolutely would" revoke herself as a surety. Miller believed that the police "get cocky and play the game 'guilty by association' and make assumptions and don't care what the implications are," which is why he never called the police on his friend who continually had issues with compliance. In this way, sureties were less willing to report the accused if they held negative beliefs towards the law.

Discussion

Shifting responsibility for crime control from the state onto ordinary citizens raises important questions about the impact on the practice of bail. Yet much research on the diffusion of penal control focuses on what criminal justice policy and/or decisions say rather than what non-state agents do. By speaking with sureties, we learn that friends and family responsible for supervising the accused in the community interpret bail breaches differently than the courts. Despite their general commitment towards supervising accused individuals, sureties' willingness to report non-compliant behavior varied considerably based on the perceived severity of the act, the fairness of the conditions, the accused's best interests and their progress on bail, and their own bias towards the law. Our results thus suggest that sureties both assist and resist the criminal justice system in controlling the actions of accused individuals.

Our findings support the position that surety releases are a coercive form of pre-trial release and thus function as pre-conviction punishment in some circumstances (Myers, 2009, 2017; Yule et al., 2022). The limited legal discretion sureties have to breach the accused likely contributes to why this is often considered "one of the most onerous forms of release" (*R. v. Antic*, 2017 para 67g). Living with someone who is conditioned to identify and report all non-compliant behaviour amplifies the court's ability to control the actions of the accused, increasing the likelihood of breaches. The ability of friends and family to leverage the consequences of non-compliant behaviour to modify the accused's actions reveals the more punitive aspects of surety releases. How well an accused lived up to their surety's expectations was a common factor in reporting decisions; sureties viewed the accused who deliberately broke their conditions and made no effort to get sober, find employment, or contribute to the household as less deserving of leniencies, increasing their odds of either reporting or revoking. Despite being well-intentioned, friends and families risk becoming overly punitive if they threaten to report or revoke an accused for failing to make adequate life changes that align with their own hopes and goals (see Gottfredson & Gottfredson 1988). Some sureties explicitly stressed the value of sending the accused back to jail to teach them a lesson or to uphold public safety. Sureties' willingness to report the accused to the police when they felt they lacked control over the accused supports Rose et al.'s (2004) hypothesis that parents who feel hopeless regarding their child's future will be more inclined to give them up to the authorities. Sureties were more prepared to report when they believed jail was the only option to achieve these goals.

In many respects, surety releases can be described as a hidden sentence, or a punishment that "the law imposes as a direct result of criminal status but not as part of a formally recognized, judge-imposed sentence" (Kaiser, 2016, p. 127). These include the "largely unrecognized and unconsidered deprivation of rights and privileges to which the law subjects criminal offenders," including those that "begin prior to conviction, upon arrest, or pre-trial detention" (Kaiser, 2016, p. 127). Based on this definition, surety releases are a quintessential hidden sentence; not only does very little empirical evidence exist about them (aside from court observations detailing how frequently they are used), but optically they can appear more lenient because court-orders are being enforced by the accused's friends and family. However, release conditions and expectations make this type of release nearly indistinguishable from other forms of post-conviction punishment such as parole and probation, where there are serious legal consequences that develop from not following the conditions. Unlike probation or parole officers, though, sureties are held to a much higher standard of accountability when the accused fails to comply.

Yet our findings also complicate portrayals of sureties as simply dupes or pawns of the state for whom the law automatically takes on a precedential role. Without doubt, several sureties did view the law in this way, especially those who had limited prior interactions with it. Deferring to the law's power to determine right from wrong, these sureties showed very little hesitation when asked if they would report the accused. Others also expressed fear of experiencing the consequences of the law, including having

their bail amount forfeited or their reputations tarnished. In these cases, sureties commonly conceded to the law to provide legitimacy for their actions. While this level of cooperation helps sustain the "autonomy of the law's authority" (Ewick & Silbey, 1998, p. 76), not all sureties used and experienced the law in the same way. In fact, when deciding whether to report bail violations, most sureties employed their own sense of justice based on what they viewed as appropriate.

The role the law plays in the lives of sureties is an important factor in determining how willing they are to report. For example, distrust in the law and the criminal justice system more broadly prohibited several sureties from reporting the accused to the police except for extenuating circumstances (i.e., the accused put themselves or someone else at risk). Although all sureties make a promise to the court, negative past encounters with the law dissuaded some sureties from fulfilling that promise outside the courthouse. Consistent with past research (Rosenfeld et al., 2003; Solis et al., 2009), sureties who demonstrated more legal cynicism were less inclined to report non-compliant behaviour, seeing minor breaches as trivial and not deserving of additional consequences. With that said, even those who reported that they were skeptical of the criminal justice system still gave scenarios in which they would call the police. This supports Bell's (2016, p. 338) conclusion that legal cynicism "is a dynamic strategy that is part of a larger repertoire about legal authorities, and it operates differently depending on the nature of moments of crime and disorder." In the context of bail, sureties appear to be more prepared to adapt some of the court's demands than others in the supervision of their loved one.

Becoming a surety is a transformative process that sees friends and family assuming a new role in the accused's lives, and these ties complicate the reporting process. While the courts believe that both sureties and the accused will comply with court orders to avoid financial reprisal, there is often more at stake in these relationships that prompts further consideration. The monetary threat that is placed upon sureties prompted some to consider reporting or revoking, especially if that amount made it difficult for them or their family to make rent, pay groceries, etc. Yet many sureties spoke of weighing the financial costs against the costs of imprisonment. For them, the price placed on the accused's bail was inconsequential to the price of being in jail. Familial bonds compelled some sureties to turn a blind eye towards minor breaches, as the guilt of putting a family member or friend in jail outweighed the possible financial punishment if the accused got caught. As a surety, family and friends are caught between following their own moral order and that of the law (Elster, 1999). For sureties who valued the law or felt they no longer had control over the accused, reporting was necessary and reflected their own moral code regarding proper behaviour. For others, however, the thought of reporting or revoking violated their own prevailing norms about what a good friend or parent would do. In these cases, the surety was committed to keeping the accused out of custody and on the right path despite potential breaches. In fact, some sureties allowed breaches to occur because they thought it would help keep the accused from committing a more serious offense and ending up back in jail. Avoidance of the law in these cases highlights the productive quality of penal discipline (Foucault, 1977). Rather than strictly following the rules, these sureties sought to transform the actions and behaviours of the accused to be more in line with normative expectations. Encouraging the accused to get clean, be a "better" parent, or to find employment was therefore more important for some sureties than making good on their promise to report court violations.

There are some limitations to our study that warrant discussion. First, the sample lacks a comparison group, specifically those who are asked to be a surety but decline. Second, it is possible that this study oversampled those who already had strong relationships with the accused and were thus more willing to talk about their experiences than those who had a weaker relationship with the accused from the start. Third, while providing in-depth data, the sample itself is small and taken from one jurisdiction. Future studies could benefit from sampling a larger group across different jurisdictions. Lastly, interviews

with those who had been a surety longer suggest that the follow-up period is important when assessing experiences on bail. For example, the longer someone is a surety, the greater the chances that the accused may reoffend or breach. It also subjects the surety to the same set of conditions for longer. Having to enforce a house arrest condition may become more challenging for someone after eight months versus only two months. The short follow-up period may also underreport the long-term challenges that result from being a surety.

Despite these limitations, our study produced a qualitatively rich data set that provides a detailed and intimate look into the often talked about but poorly understood role of being a surety. Our results reveal not all sureties are prepared or want to be the court's "civilian jailers" when it comes to breaching the accused, and thus raise questions about current depictions of surety releases as inherently onerous. While the consequences of a surety release can doubtless be intensely punitive if sureties methodically follow the rules of the court, to what extent does this exercise of discretion make bail more tolerable for the accused? Future research should interview those accused who have been assigned a residential surety condition to better understand the lived experience of this form of bail release. Moreover, comparing an accused's experiences on different bail releases (e.g., surety release versus own recognizance) would allow scholars to understand whether having a surety puts the accused at greater risk of breaching and/or being caught. Socio-legal scholars may be further interested in assessing whether reductions to privacy go beyond constitutional protections to reasonable bail. Another question emerging from the current study involves how the "collateral" or "repercussive" effects of the expanding penal state impact the families and communities of criminalized individuals. Future research should explore how the actions and reporting habits of sureties impact their short and longer-term relationships with the accused. Answers to this question will provide a better understanding of the potential unintended and damaging consequences of penal devolution on the willingness of friends and family to provide social support to criminal justice-involved individuals.

Conclusion

Assessing a surety's willingness to report an accused enhances understanding of how legal responsibility is not just assumed by non-state actors but also transformed in the context of everyday life. Friends and family commonly used the threat of non-compliance to enact their own forms of penal justice based on their personal views of the law, the context of the breach, the fairness of the conditions, and the accused's actions. Although the surety and accused alike are bound by specific rules of the court, the accused are also expected to live up to their surety's hopes and wishes. By entrusting friends and family to become de facto guards, the courts surrender the ability to fully control the pre-conviction experience. Exposing the little known and often hidden world of surety releases reveals that they are both coercive and productive in nature and teeter between leniency and punishment.

Notes

[1] There are a number of release options outlined under sec. 515(2) of the Criminal Code, including (1) releasing an accused on an undertaking, (2) on their own recognizance, (3) with a surety, (4) with a monetary deposit, or (5) with both a surety and monetary deposit.
[2] Crown attorneys or "Crowns" are the prosecutors in the legal system of Canada. Crown attorneys represent the Crown and act as prosecutors in proceedings under the Criminal Code and various other statutes.
[3] Due to a lack of publicly available data, it is unclear how frequently the courts pursue this line of action when the accused breach their bail.

[4] If an accused fails to comply with their recognizance or is charged with a new substantive offense while on bail, the Crown Attorney may pursue estreatment. Estreat court, or estreatment, refers to the process by which the Crown seeks to obtain the original bail amount from the surety and/or accused.
[5] While some evidence suggests the court culture emphasizing the "near-automatic" use of sureties may be subsiding following a stern reminder from the courts (see *R. v. Tunney* (2018) para 45 and *R. v. Antic* (2017)) that justices, Crowns, and defence lawyers must avoid a normative culture that prioritizes risk management over legal principles outlined in the *Criminal Cod*e, a large number of accused (e.g., roughly one-third in Ontario, Canada) still require a surety to be granted bail (Schumann & Yule, 2022).
[6] Of the twenty sureties who we were unable to conduct a follow-up interview with, seven no longer had a number in service, three were denied the opportunity to become a surety during the bail hearing, eight did not return follow-up messages, and two were no-shows.
[7] Due to ethical concerns, questions about actual bail breaches or criminal activity were not allowed.
[8] Pseudonyms are used to protect the confidentiality of our study participants.
[9] In instances when two people are listed as sureties, they were both interviewed for the study. The courts sometimes name two sureties, typically the parents of the accused, if the accused is a flight risk and/or charged with more serious offences. Dual sureties can offer near-constant supervision of the accused.

About the authors

Rachel Schumann holds a PhD in Sociology from the University of Toronto. Her research investigates how criminal court decisions shape the lives of criminal justice involved individuals and their families.

Carolyn Yule is an Associate Professor in the Department of Sociology and Anthropology at the University of Guelph. Her research uses a combination of quantitative and qualitative methods to examine how life course events and processes shape stability and change in criminal behaviour. She also studies issues around pre-trial release in the adult criminal justice system.

References

Bachman, R. (1998). The factors related to rape reporting behavior and arrest. *Criminal Justice and Behavior*, *25*, 8-29. https://doi.org/10.1177/0093854898025001002

Baumer, E. (2002). Neighborhood disadvantage and police notification by victims of violence. *Criminology*, *40*(3), 579-616. https://doi.org/10.1111/j.1745-9125.2002.tb00967.x

Bell, M. C. (2019). The community in criminal justice: Subordination, consumption, resistance, and transformation. *Du Bois Review*, *16*(1), 197-220. https://doi.org/10.1017/s1742058x1900016x

Bell, M. C. (2016). Situational trust: How disadvantaged mothers reconceive legal cynicism. *Law & Society Review*, *50*(2), 314-342. https://doi.org/10.1111/lasr.12200

Black, D. (1976). *The behavior of law.* Academic Press.

Brown, B., & Reed Benedict, Wm. (2002). Perceptions of the police: Past findings, methodological issues, conceptual issues, and policy implications. *Policing: An International Journal*, *25*(3), 543-580. https://doi.org/10.1108/13639510210437032

Brunson, R., & Miller, J. (2006). Gender, race, and urban policing: The experience of African American youths. *Gender & Society*, *20*(4), 531-52. https://doi.org/10.1177/0891243206287727

Campbell, R., Adams, A., Wasco, S., Ahrens, C., & Sefl, T. (2009). Training interviewers for research on sexual violence: A qualitative study of rape survivors' recommendations for interview practice. *Violence Against Women*, *15*(5), 595-617. https://doi.org/10.1177/1077801208331248

Canadian Civil Liberties Association (CCLA). (2014). Set up to fail: Bail and the revolving door of pre-trial detention. Report prepared by Canadian Civil Liberties Association. https://ccla.org/wp-content/uploads/2021/07/Set-up-to-fail-FINAL.pdf

Carr, P., Napolitano, L., & Keating, J. (2007). We never call the cops and here is why: A qualitative examination of legal cynicism in three Philadelphia neighborhoods. *Criminology*, *45*(2), 445-480. https://doi.org/10.1111/j.1745-9125.2007.00084.x

Deterding, N. M., & Waters, M. C. (2021). Flexible coding of in-depth interviews: A Twenty-first-century approach. *Sociological Methods and Research*, *50*(2), 708-739. https://doi.org/10.1177/0049124118799377

Doob, A., & Webster, C. M. (2012). Back to the future? Policy development in pre-trial detention in Canada. In K. Ismaili, J. B. Sprott, & K. Varma (Eds.), *Canadian Criminal Justice Policy* (pp. 31-57). Oxford University Press.

Elster, J. (1999). *Alchemies of the mind: Rationality and the emotions*. Cambridge University Press. https://doi.org/10.1017/cbo9781139173308

Ewick, P., & Silbey, S. (1998). *The common place of law: Stories from everyday life*. The University of Chicago Press. https://doi.org/10.7208/chicago/9780226212708.001.0001

Felson, R. B., & Paré, P.-P. (2005). The reporting of domestic violence and sexual assault by nonstrangers to the police. *Journal of Marriage and Family*, *67*, 597-610. https://doi.org/10.1111/j.1741-3737.2005.00156.x

Foucault, M. (1977). *Discipline and punish: The birth of the prison*. Penguin. https://doi.org/10.1215/9780822390169-018

Galvin, M., & Safer-Lichtenstein, A. (2018). Same question, different answers: Theorizing victim and third-party decisions to report crime to the police. *Justice Quarterly*, *35*(6), 1-32. https://doi.org/10.1080/07418825.2017.1353123

Goddard, T. (2012). Post-welfarist risk managers? Risk, crime prevention and the responsibilization of community-based organizations. *Theoretical Criminology*, *16*(3), 347–63. https://doi.org/10.1177/1362480611433432

Goodman, P., Page, J., & Phelps, M. (2017). *Breaking the pendulum: The long struggle over criminal justice*. Oxford University Press. https://doi.org/10.1093/acprof:oso/9780199976058.001.0001

Gottfredson, M. R., & Gottfredson, D. M. (1988). *Decision making in criminal justice: Toward the rational exercise of discretion* (2nd ed.). Plenum. https://doi.org/10.1007/978-1-4757-9954-5

Hagan, J., McCarthy, B., Herda, D., & Cann Chandrasekher, A. (2018). Dual process theory of racial isolation, legal cynicism, and reported crime. *Proceedings of the National Academy of Sciences of the United States of America*, *115*(28), 7190-7199. https://doi.org/10.1073/pnas.1722210115

Hare, S. (2006). What do battered women want? Victims' opinions on prosecution. *Violence and Victims*, *21*(5), 611–628. https://doi.org/10.1891/0886-6708.21.5.611

Hare, S. (2010). Intimate partner violence: Victims' opinions about going to trial. *Journal of Family Violence*, *25*, 765-776. https://doi.org/10.1007/s10896-010-9334-4

Hirschel, D., & Hutchison, I. (2003). The voices of domestic violence victims: Predictors of victim preference for arrest and the relationship between preference for arrest and revictimization. *Crime & Delinquency*, *49*(2), 313-336. https://doi.org/10.1177/0011128702251067

Hitchens, B., Carr, P., Clampet-Lundquist, S. (2018). The context for legal cynicism: Urban young women's experiences with policing in low-income, high-crime neighborhoods. *Race and Justice*, *8*(1), 27-50. https://doi.org/10.1177/2153368717724506

Hsiung, P.-C. (2008). Teaching reflexivity in qualitative interviewing. *Teaching Sociology*, *36*(3), 211-226. https://doi.org/10.1177/0092055x0803600302

John Howard Society of Ontario (JHSO). (2013). *Reasonable Bail?* Centre of Research, Policy and Program Development.

Kaiser, J. (2016). Revealing the hidden sentence: How to add transparency, legitimacy, and purpose to collateral punishment policy. *Harvard Law and Policy Review*, *10*(1), 123-184.

Kaufman, N., Kaiser, J., & Rumpf, C. (2018). Beyond punishment: The penal state's interventionist, covert, and negligent modalities of control. *Law & Social Inquiry*, *43*(2), 468-495. https://doi.org/10.1111/lsi.12237

Kirk, D. S., & Matsuda, M. (2011). Legal cynicism, collective efficacy, and the ecology of arrest. *Criminology*, *49*(2), 443–472. https://doi.org/10.1111/j.1745-9125.2011.00226.x

Koss, M. P. (2000). Blame, shame, and community: Justice responses to violence against women. *American Psychologist*, *55*, 1332–1343. https://doi.org/10.1037/0003-066x.55.11.1332

Lauzon, J. (2016). When bail courts don't follow the law. *National Post*. Retrieved Sept 17, 2018 from http://news.nationalpost.com/full-comment/julie-lauzon-when-bail-courts-dont-follow-the-law

Maurutto, P., & Hannah-Moffat, K. (2006). Assembling risk and the restructuring of penal control. *The British Journal of Criminology*, 46(3), 438–454. https://doi.org/10.1093/bjc/azi073

Mayhew, P., Clarke, R. V. G., Burrow, J. N., Hough, J. M., & Winchester, W. C. (1979). *Crime in the public view*. Great Britain Home Office.

Miles, M. B., Huberman, A. M., & Saldaña, J. (2020). *Qualitative data analysis: A methods sourcebook* (4th ed.). Sage Publications.

Myers, N. (2009). Shifting risk: Bail and the use of sureties. *Current Issues in Criminal Justice*, *21*(1), 127–147. https://doi.org/10.1080/10345329.2009.12035836

Myers, N. (2017). Eroding the presumption of innocence: Pre-trial detention and the use of conditional release on bail. *The British Journal of Criminology*, *57*(3), 664-683. https://doi.org/10.1093/bjc/azw002

Myers, N. (2019). Jailers in the community: Responsiblizing private citizens as third-party police. *Canadian Journal of Criminology and Criminal Justice Policy*, *61*(1), 66-85. https://doi.org/10.3138/cjccj.2017-0040

Powell, B. (2012). Ontario's bail system: a dog that rarely bites? *The Star*. https://www.thestar.com/news/crime/2012/08/31/ontarios_bail_system_a_dog_that_rarely_bites.html

Rose, C., Glaser, B., Calhoun, G., & Bates, J. (2004). Assessing the parents of juvenile offenders preliminary validation study of the juvenile parent questionnaire. *Child & Family Behavior Therapy*, *26*(1), 25-43. https://doi.org/10.1300/j019v26n01_03

Rosenfeld, R., Jacobs, B. A., & Wright, R. (2003). Snitching and the code of the street. *British Journal of Criminology*, *43*, 291-309. https://doi.org/10.1093/bjc/43.2.291

Schumann, R. (2018). Sureties as civilian jailers: Understanding the role of the court in the lives of accused released on surety bail in Ontario. *Canadian Review of Sociology*, *55*(4), 532-554. https://doi.org/10.1111/cars.12221

Schumann, R., & Yule, C. (2022). Unbreaking bail?: Post-antic trends in bail outcomes. *Canadian Journal of Law and Society*, *37*(1), 1-28. https://doi.org/10.1017/cls.2021.43

Shah, R., & Pease, K. (1992). Crime, race and reporting to the police. *The Howard Journal of Criminal Justice*, *31*, 192-199. https://doi.org/10.1111/j.1468-2311.1992.tb00741.x

Simon, J. (2007). *Governing through crime: How the war on crime transformed American democracy and created a culture of fear*. Oxford University Press. https://doi.org/10.2307/25095276

Small, M. L., & Calarco, J. M. (2022). *Qualitative literacy: A guide to evaluating ethnographic and interview research*. University of California Press. https://doi.org/10.1525/9780520390676

Solis, C., Portillos, E. L., & Brunson, R. K. (2009). Latino youths' experiences with and perceptions of involuntary police encounters. *The ANNALS of the American Academy of Political and Social Science*, *623*, 39-51. https://doi.org/10.1177/0002716208330487

Sunshine, J., & Tyler, T.R. (2003). The role of procedural justice and legitimacy in shaping public support for policing. *Law & Society Review*, *37*, 513-548. https://doi.org/10.1111/1540-5893.3703002

Svennson, R., Weerman, F., Pauwels, L., Bruinsma, G., & Bernasco, W. (2013). Moral emotions and offending: Do feelings of anticipated shame and guilt mediate the effect of socialization on offending? *European Journal of Criminology*, *10*(1), 22-39. https://doi.org/10.1177/1477370812454393

Tracy, S.J. (2020). *Qualitative research methods: Collecting evidence, crafting analysis, communicating impacts* (2nd ed.). John Wiley & Sons, Inc.

Trotter, G. (2010). *The law of bail in Canada* (3rd ed.). Carswell.

Webster C., Doob, A., & Myers, N. (2009). The parable of Ms. Baker: Understanding pretrial detention in Canada. *Current Issues in Criminal Justice*, *21*(1), 79–102. https://doi.org/10.1080/10345329.2009.12035834

Wyant, R. E. (2016). *Bail and remand in Ontario*. Ontario Ministry of the Attorney General.

Yule, C., Schumann, R., MacDiarmid, L., & Dunleavy, B. (2022). The Paradox of pre-conviction punishment: The experience of living with bail conditions. *Journal of Crime and Justice*, *46*(2), 1-17. https://doi.org/10.1080/0735648x.2022.2112264

Legislation and Court Cases

Canada (Attorney General) v. Horvath (2009) ONCA 732
Canadian Charter of Rights and Freedoms, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), c 11
(*Canadian Bill of Rights 1960* s. 1(e))
(Criminal Code citation)
R. v. Antic (2017) SCC 27, [2017] 1 S.C.R. 509
R. v. Hiscoe (2013) NSCA 48
R. v. Rhyno (2009) NSCA 108
R. v. Tunney (2018) ONSC 961